

DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT

This Development and Conditional Zoning Agreement is hereby made and entered into this 20 day of Jan, 2012, by and between Nebraska Nurseries Incorporated, a Nebraska corporation, hereinafter referred to as "Developer", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City".

RECITALS

I.

Developer has petitioned the City for a change of zone (No. 11043 from R-3 to O-2 upon the following described property generally located at 4301 South 80th Street. The property is legally described as: Lot 1, The Preserve on Antelope Creek Addition, Lancaster County, Nebraska.

II.

This change of zone from R-3 to O-2 is appropriate provided direct access from Lot 1, The Preserve on Antelope Creek Addition to Pioneers Blvd, an arterial street, is relinquished, and that a 24'-wide public access easement is granted across the lot to accommodate joint access with adjoining properties to eliminate unnecessary driveways, the exact location of the easement to be approved by Public Works and Utilities at the time of building permit.

III.

The Developer has represented to the City that in consideration of the City re-zoning the Property to O-2, the Developer will enter into an agreement with the City to relinquish direct access to Pioneers Blvd from Lot 1, The Preserve on Antelope Creek Addition, and to grant a 24'-wide public access easement cross the lot to accommodate joint access with adjoining lots.

IV.

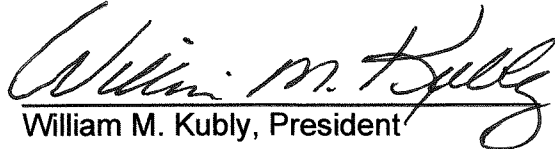
The City desires an Agreement, to be assured that direct access to Pioneers Blvd will be relinquished and that a public access easement will be granted should the Property be re-zoned to O-2.

NOW THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. The City hereby agrees to grant Developer's petition to change the zoning map from R-3 to O-2 District on the Property.
2. In consideration for the City re-zoning the Property to O-2 District the Developer agrees to the following requirements:
 - a. Owner agrees to relinquish access from Lot 1, The Preserve on Antelope Creek Addition to Pioneers Blvd.
 - b. Owner agrees to grant a 24'-wide public access easement from South 80th Street to the west lot line in a location to be approved by Public Works at the time of building permits.
4. This Agreement shall run with the land and shall be binding upon the parties hereto and their respective successors and assigns.
5. This Agreement, when executed by the parties hereto, shall be recorded by the City in the office of the Register of Deeds of Lancaster County, Nebraska, filling fees to be paid by Developer.

IN WITNESS WHEREOF, the parties herein have executed this Agreement as of the day and year set forth above.

Nebraska Nurseries, Inc.
a Nebraska corporation,


William M. Kubly, President

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

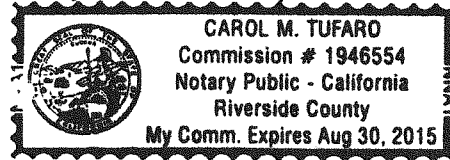
Mayor of Lincoln

STATE OF ~~NEBRASKA~~ ^{California})
COUNTY OF ~~LANCASTER~~ ^{Riverside}) ss.

The foregoing instrument was acknowledged before me this 20 day of January, 2012, by William M. Kubly, President of Nebraska Nurseries, Inc., a Nebraska corporation.

Carol M. Tufaro
Notary Public

STATE OF NEBRASKA)
COUNTY OF LANCASTER) ss.



The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

Notary Public